

E. M. HART

IBLA 80-726

Decided September 26, 1980

Appeal from a decision of the Nevada State Office, Bureau of Land Management, declaring appellant's mining claims abandoned and void. NMC 46783 through 46796.

Appeal dismissed.

1. Appeals--Rules of Practice: Appeals: Dismissal--Rules of Practice: Appeals: Statement of Reasons

Under 43 CFR 4.402 and 4.412, an appeal to the Board will be subject to summary dismissal by the Board if a statement of reasons for the appeal is not included in the notice of appeal and is not filed within 30 days after the notice of appeal was filed.

APPEARANCES: E. M. Hart, pro se.

OPINION BY ADMINISTRATIVE JUDGE FISHMAN

E. M. Hart 1/ has appealed from a decision of the Nevada State Office, Bureau of Land Management (BLM), dated May 1, 1980, declaring appellant's mining claims 2/ abandoned and void. The subject claims located between November 30, 1978, and December 14, 1978, were

1/ The record shows that the various claims were owned by several individuals; however, Mr. Hart alone made an appearance on appeal.

2/ Appellant's mining claims are Treasure Hill Nos. 417 through 419, Nos. 433 through 435, and Nos. 701 through 708.

declared void because of appellant's failure to file evidence of annual assessment work or a notice of intention to hold the claims before December 30, 1979 (the year following the calendar year in which the claims were located), as required by section 314 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. § 1744 (1976), and 43 CFR 3833.2-1. BLM further determined that failure to file the appropriate instruments timely constituted an abandonment of the mining claims. 43 U.S.C. § 1744(c) (1976); 43 CFR 3833.4.

On June 16, 1980, this Board received a written communication from Mr. Hart inquiring about the status of two claims the Treasure Hill No. 417 and No. 708, N MC-46783 and N MC 46796 respectively. By letter dated June 17, 1980, Mr. Hart was informed that the Board could not advise him on the status of his claims. Mr. Hart was also informed that his letter of June 11, 1980, would be treated as a notice of appeal and forwarded to the Nevada State Office of BLM. Finally, Mr. Hart was advised that pursuant to 43 CFR 4.412 a statement of reasons for appeal must be filed with the Board within 30 days after a notice of appeal has been filed. To date, no such statement of reasons in support of an appeal has been received from appellant.

[1] 43 CFR 4.402 and 4.412 state in pertinent part:

§ 4.402 Summary dismissal.

An appeal to the Board will be subject to summary dismissal by the Board for any of the following causes:

(a) If a statement of the reasons for the appeal is not included in the notice of appeal and is not filed within the time required; * * *.

§ 4.412 Statement of reasons, written arguments, briefs.

If the notice of appeal did not include a statement of the reasons for the appeal, such a statement must be filed with the Board (address: Board of Land Appeals, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203) within 30 days after the notice of appeal was filed. Failure to file the statement of reasons within the time required will subject the appeal to summary dismissal as provided in § 4.402, unless the delay in filing is waived as provided in § 4.401(a).

We have reviewed the case file and find no statement of reasons or any explanation of the failure to file one timely from appellant. Therefore, the appeal does not conform to the Department's rules of practice and the appeal may be and is dismissed.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the appeal is dismissed.

Frederick Fishman
Administrative Judge

We concur:

Douglas E. Henriques
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

